IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

**O R D E R**

S.B.CRIMINAL MISC. PETITION NO. 1225/2006
(Hanif Khan Vs. State of Rajasthan)

Date of Order : 19/09/2006

**PRESENT**

**HON'BLE MR. JUSTICE H.R.PANWAR**

Mr. R.K.Charan for the petitioner.
Mr. Ashok Upadhyay, P.P.

**BY THE COURT**:-

Issue notice for final disposal. Mr. Ashok Upadhyaya, public prosecutor accepts notice. With the consent of parties, this criminal miscellaneous petition under Section 482 Cr.P.C. is heard and decided at the admission stage.

By the instant petition under section 482 Cr.P.C. the petitioner has challenged order dated 15.7.2006 passed by Additional Sessions Judge No.2, Chittorgarh (for short 'the revisional court' hereinafter) whereby while allowing the revision petition filed by the petitioner against the order dated 23.5.2006 passed by Additional Chief Judicial Magistrate, Kapasan (for short 'the trial court' hereinafter) in Criminal Case No. 134/2005 refusing to give the interim custody of vehicle in question, the

revisional court ordered to release the Ambassador Car bearing No. RJ-30C-1009 in favour of the petitioner on Supurdginama provided the petitioner furnishes a bank guarantee in the sum of Rs.3,00,000/- as also on certain conditions incorporated in the order. Aggrieved by the impugned order, the petitioner has filed the instant petition.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner that the petitioner is not an accused in the case and the vehicle Ambassador Car is of 1983 model which alleged to have been found carrying 18 kg 250 grams of Sandel wood in contravention of the provisions of the Forest Act, therefore, the condition imposed by the trial court of giving bank guarantee of Rs.3,00,000/- is onerous and the petitioner being a poor person would not be in a position to give such bank guarantee.

Having regard to the facts and circumstances of the case, in my view, directing the petitioner to give the bank guarantee of Rs. 3,00,000/- appears to be a condition onerous and therefore, the ends of justice would be met if the condition of giving the bank guarantee of Rs. 3,00,000/- is modified to Rs. 50,000/-.

In the result, the order impugned dated 15.7.2006

passed by the revisional court is modified to the extent that instead of giving bank guarantee of Rs. 3,00,000/-, the Ambassador Car in question shall be released in favour of the petitioner on furnishing bank guarantee of Rs. 50,000/-.

With the above modification, the petition is disposed of.

**(H.R.PANWAR),J.**

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